



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 30, 1998

Mr. Tyrone Powers
Commander of Fiscal Management
San Antonio Police Department
214 West Nueva Street
San Antonio, Texas 78207

OR98-1797

Dear Mr. Powers:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116967.

The City of San Antonio Police Department (the "city") received a request for a list of the names of officers (current and past) as well the officers' corresponding rank and badge number, date of birth, "specific" work assignment, salary, amount of training hours, and the type of peace officer certification. You claim that the requested information is excepted from disclosure under the Open Records Act, Chapter 552 of the Government Code. We have considered your assertion.

Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not submit to this office copies or representative samples of the specific information that was requested, the specific exceptions applicable, or a copy of the written request for information.

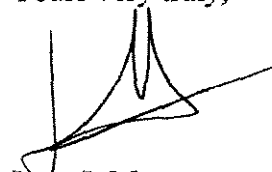
Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated February 3, 1998, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue was presumed public. The fact that submitting copies for review to the Attorney General may be burdensome does not relieve a governmental body of the responsibility of doing so. Open Records Decision No. 497 (1988).

As of the date of this letter you have not provided our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the

subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests). In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the requested information is presumed public and must be released.¹ Open Records Decision No. 195 (1978); *but see* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 116967

Enclosures: Submitted documents

cc: Mr. John Tedesco
San Antonio Express-News
P.O. Box 2171
San Antonio, Texas 78297
(w/o enclosures)

¹Generally, neither sections 552.103, 552.107 nor 552.108 provide compelling demonstrations to overcome the presumption of openness. Open Records Decision Nos. 630 (1994), 473 (1987).